

Attorney Docket No.: 9056-5CT

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Mailland

Serial No.: 10/016,005

Filed: November 1, 2001

For: *METHODS FOR MAKING SUSTAINED-RELEASE PHARMACEUTICAL  
COMPOSITIONS OF ERGOT ALKALOIDS HAVING IMPROVED  
BIOAVAILABILITY AND COMPOSITIONS THEREOF*

Confirmation No.: 3851

Group Art Unit: 1615

Examiner: M. Young

July 14, 2004

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**REQUEST FOR ACCEPTANCE WITHOUT  
PETITION AND FEE FOR EXTENSION OF TIME**

Sir:

Applicant hereby submits a Request for Acceptance Without Petition for Extension of Time to accompany the Notice of Appeal to The Board of Patent Appeals and Interferences (hereinafter, "Notice of Appeal") submitted concurrently herewith. Applicant respectfully requests that the Notice of Appeal be accepted without a petition and payment of fee for an extension of time under 37 CFR 1.136(a) for at least the following reasons:

1. Applicant received the Final Office Action dated January 14, 2004 and submitted an Amendment After Final on February 23, 2004. A photocopy of the Amendment After Final of February 23, 2004 as well as a copy of the postcard receipt is attached herewith;
2. Applicants resubmitted the Amendment After Final of February 23, 2004 to Examiner Young via facsimile on June 14, 2004; and
3. Applicant has not received an Advisory Action from the United States Patent and Trademark Office responsive to Applicant's Amendment After Final of February 23, 2004.

Applicant respectfully submits that, as stated in the Final Office Action dated January 14, 2004, "[i]n the event that a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the

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date the advisory action is mailed, and any extension fee pursuant to 37 CFR § 1.136(a) will be calculated from the mailing date of the advisory action." Applicant respectfully notes that although Applicant filed a response within two months of the mailing date of the Final Office Action dated January 14, 2004, Applicant did not receive an Advisory Action. Accordingly, Applicants filed a timely response to the Final Office Action dated January 14, 2004, and the need to file a Notice of Appeal is through no fault of the Applicant.

Respectfully submitted,



Shawna Cannon Lemon  
Registration No. 53,888

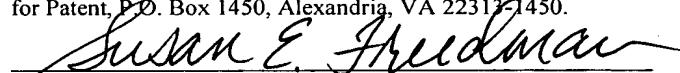
Myers Bigel Sibley & Sajovec, P.A.  
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**CERTIFICATE OF EXPRESS MAILING**

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Date of Deposit: July 14, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10 on the date indicated above and is addressed to: Mail Stop AF, Commissioner for Patent, P.O. Box 1450, Alexandria, VA 22312-1450.



Susan E. Freedman

Date of Signature: July 14, 2004

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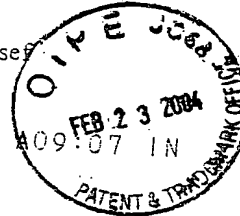
February 23, 2004

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Alexandria, VA 22313-1450



Sir: Kindly acknowledge receipt of the accompanying by placing your receiving date stamp hereon and mailing:

Amendment After Final; In re: Mailland; Serial No. 10/016,005; Filed November 2, 2001; For: **METHODS FOR MAKING SUSTAINED-RELEASE PHARMACEUTICAL COMPOSITIONS OF ERGOT ALKALOIDS HAVING IMPROVED BIOAVAILABILITY AND COMPOSITIONS THEREOF**

Respectfully submitted,  
MYERS BIGEL SIBLEY & SAJOVEC